



## TOWN OF IPSWICH PLANNING & DEVELOPMENT DEPARTMENT

TOWN HALL, 25 GREEN STREET, IPSWICH, MASSACHUSETTS 01938

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TO: Planning Board  
FROM: Ethan Parsons, Senior Planner  
SUBJECT: Potential Zoning Amendments – 2019 Special Town Meeting  
DATE: June 20, 2019

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Over the past few meetings, the Board has discussed potential zoning amendments for presentation to the Special Town Meeting in the fall of 2019. In this memorandum I will summarize the issues and potential amendments that the Board has discussed. There is one new proposed change that has not been discussed, which is to add an alternate position to the Zoning Board of Appeals. As some of you will recall this is a potential amendment that was previously brought to the Board's attention, however, because it was brought to its attention late, the Board was unable to include it with its articles that year. The purpose of this memorandum, then, is to generate discussion about these potential amendments at your June 20, 2019 meeting. At the end of this memo I am also listing ideas for future zoning changes/Town Meetings. It is not necessary to discuss these ideas at your June 20 meeting, however, I am recommending that the Board continue thinking about potential changes for the 2020 Annual Town Meeting.

Because Town Meeting will be on October 29, I anticipate that the Board will hold its hearings on any potential amendments it initiates at its August 22 and September 12 meetings, which means that if the Board chooses to initiate amendments it should aim to do so no later than its July 11 meeting. This will enable Planning staff to advertise the August 22 public hearing the week of July 29. The suggested schedule will also enable the Planning Board to review and approve its Report to Town Meeting on October 3, several weeks before Town Meeting.

For clarity, this is the schedule I am proposing the Board follow for delivering these potential zoning changes to Town Meeting:

Meeting of June 20: discuss potential zoning changes, narrowing list down to final  
Meeting of July 11: vote to proceed with changes  
Select Board Meeting of July 15 or 22: Request referral of articles for public hearing  
Week of July 29: staff to advertise hearing for August 22  
Meeting of August 1: no discussion  
Meeting of August 22: public hearing  
Meeting of September 12: likely continued public hearing session  
Meeting of October 3: review and approve report to town meeting  
Meeting of October 24: no discussion  
October 29 Town Meeting

This schedule is subject to change.

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### **Issue:**

The Planning and Development and Building departments have been communicating with the Director of the Flood Hazard Management Program at the Massachusetts Department of Conservation and Recreation (DCR) regarding the FEMA Community Rating System program (<https://www.fema.gov/national-flood-insurance-program-community-rating-system>). The Director has informed us that there is a section in Chapter IX.D that should be revised to accurately reflect the requirements in the current building code, the 9<sup>th</sup> Edition.

Chapter IX.D, 3(d) currently reads: *In the AO zones, the lowest floor of new construction of substantial improvements shall be elevated above the crown of the nearest street or above the average depth indicated within the Town of Ipswich on the Essex County FIRM.*

### **Proposed Amendment:**

The Director of the Flood Hazard Management Program at the DCR recommends we change this language to the following: *For AO Zones, the design flood elevation shall be the elevation of the highest adjacent grade plus the flood plain depth specified on the FIRM plus one foot or the elevation of the highest adjacent grade plus three feet if no flood depth is specified.*

### **Proposed Markup:**

~~In the For AO zones, the lowest floor of new construction of substantial improvements shall be elevated above the crown of the nearest street or above the average depth indicated within the Town of Ipswich on the Essex County FIRM~~ *the design flood elevation shall be the elevation of the highest adjacent grade plus the flood plain depth specified on the FIRM plus one foot or the elevation of the highest adjacent grade plus three feet if no flood depth is specified.*

### **Issue:**

Parking has emerged as a subject of keen interest for the Ipswich Planning Board, Town Meeting, citizens and the public at large. In recent months, a Parking Task Force has convened; a downtown Parking Study has been completed; a citizen's petition in May 2019 proposed raising the minimum parking requirement for residences; and Town efforts to improve centrally located parking lots and enforce current on-street parking regulations have been ongoing. The efforts are primarily aimed at reducing and preventing on-street congestion.

### **Proposed Amendment:**

In the context of general efforts to ensure adequate and appropriate off-street parking, the Planning Board proposes revisions to Section VII. Off-Street Parking and Loading Regulations, such that:

- **The minimum parking requirement for residences would be two spaces per dwelling unit with two or more bedrooms and one-and-a-half spaces per dwelling unit with fewer than two bedrooms.** Comparatively, the current requirement is simply 1.5 spaces per dwelling unit. The proposed revision would increase the number of off-street parking spaces required in situations where occupants are likely to own more than one car, while still allowing the possibility for a one-bedroom or studio unit to have a single dedicated parking space. No change to the special permit for up to a 50% reduction is proposed.
- **Tandem parking spaces would be allowed by waiver to be included in the total count of parking spaces in certain situations.** Currently, tandem spaces can factor into the total parking count in instances where a full-time attendant supervises parking, such as at an auto repair shop. The Planning Board proposes also allowing tandem spaces, by waiver from the Special Permit Granting Authority, in certain situations requiring site plan review or a special permit. For example, tandem spaces may be appropriate in some residential settings where the spaces are shared by occupants of a single dwelling unit.
- **Electric Vehicle Charging Stations would be required in certain new or expanded parking lots, at a ratio of one charging station per twenty parking spaces.** The goal of the revision is to encourage use of electric vehicles and to introduce regulatory language that reflects current trends in automobile choices. As electric vehicles gain significant market share, the criteria for Ipswich parking lots should be updated accordingly. Exceptions to the new requirement would be allowed by waiver from the Special Permit Granting Authority.

### **Proposed Markup:**

Draft Language: To see if the Town will vote to amend the Protective Zoning Bylaw of the Town of Ipswich as follows: (strike through = language to be deleted; ***bold italics*** = new language)

## **VII. OFF-STREET PARKING AND LOADING REGULATIONS**

### **A. Parking Requirements**

Total automobile storage or parking space per principal use shall be provided in accordance with the formulae set forth in the following Table of Minimum Parking Requirements herein below:

| <b>TABLE OF MINIMUM PARKING REQUIREMENTS</b>                                |   |
|---|---|
| <b>Residential Uses</b>   | <b>Required Parking Spaces **</b>   |
| 1. Residence  | One and a half (1½) spaces per dwelling unit: <i>with fewer than two bedrooms and two (2) spaces per dwelling unit with two (2) or more bedrooms.</i> * |
| 2. Bed & Breakfast Homes<br>(Added 10/17/94 STM;<br>approved by AG 12/6/94) | One space (1) per rental unit.  |
| 3. Dormitory, resident (Added<br>10/23/95 STM; approved by<br>AG 1/29/96)   | One space for every three (3) fraternity or sorority students.  |

...

### **M. Parking and Loading Layout**

2. Layout – Required parking and loading facilities shall be laid out so that each vehicle may proceed to and from its parking space without requiring the movement of any other vehicle. The **Board Special Permit Granting Authority** may waive this requirement for parking facilities under full-time attendant supervision: *or for parking associated with a special permit...*

Insert a new subsection O to read as follows.

- O. *To encourage electric vehicle (EV) charging for projects that create twenty (20) or more new vehicle spaces, excluding loading vehicle spaces, electric vehicle charging stations must be included in the design at a ratio of one EV station per twenty (20) spaces. If the number of new spaces results in a fractional number of EV stations, the number must be rounded up when it reaches one half (1/2).*

And renumber the remaining subsections accordingly.

### **Issue:**

The Planning Board has expressed an interest in requiring in some instances and encouraging in others solar energy collection apparatuses as well as expanding the electrical grid throughout Town and reducing the Town's greenhouse gas emissions.

### **Proposed Amendment:**

Staff recommends that the Board consider amending the site plan review section to make specific mention of solar energy collection, solar energy orientation, and landscape design for solar energy optimization for energy and resource efficient design considerations.

In terms of adding requirements, this will need to be discussed further, however, preliminarily Staff is recommending the Board consider the following:

- Require solar energy collection apparatuses for all new commercial development  $\geq 10,000$  sf, expansion of commercial development yielding  $\geq 10,000$  sf, residential developments of 10 or more units, require a solar system equivalent to a minimum of 50% of roof area of all buildings.
- New parking structures with an exposed top level require a solar system covering a minimum of 75% of its top level.
- All municipal and school building projects  $\geq 10,000$  required to perform a solar feasibility study.
- Should the above apply to all zoning districts?
- Need definition of Solar Feasibility Study, include ROI estimate etc.
- Should there be exemptions: such as structural inadequacy, shading, etc.?
- Need Safety Section.
- Need to discuss with ELD.

#### **Proposed Markup for Site Plan Review:**

Draft Language: To see if the Town will vote to amend the Protective Zoning Bylaw of the Town of Ipswich as follows: (strike through = language to be deleted; ***bold italics*** = new language)

#### **X. SITE PLAN REVIEW**

##### **C. General Standards**

12. Energy, water and resource efficient design, ~~through such as~~ appropriate building orientation, landscaping, ***use of solar energy collection apparatuses, electric vehicle charging stations, LED light fixtures*** and use of resource efficient materials and energy- and water-efficient systems.

#### **Issue:**

From time to time as the Planning, Building, Zoning and other staff, and Planning and Zoning Boards work with the Zoning Bylaw, they encounter omissions, errors, or misleading language. Planning Staff learned that there has been some confusion about how to apply two sections of the Bylaw:

- (1) The “average setback rule” found in Footnote 1 to the Section VI Table of Dimensional and Density Regulations. The intent of the “average setback rule” is to allow a front setback that is the average setback of principal buildings on lots located within 250 of the subject lot in either direction along the same frontage road as the subject lot.
- (2) There is language in Section II.B.3.d that has caused confusion. The language describes certain structural changes that the Building Inspector may deem do not increase the nonconforming nature of a nonconforming structure.

#### **Proposed Amendment:**

- (1) Clarify the method for calculating the average setback rule. Add clarification that to measure average front setback one must measure 250 feet in either direction along the same street frontage as the subject lot, not to include the subject lot frontage, and if the average front setback of principal buildings on the other lots is less than what is required in the zoning district the average shall govern the minimum front setback on the subject lot.
- (2) Language in Section II.B.3.d that describes the side or face of a structure has caused confusion, primarily for the Building Inspector, Zoning Board and applicants. Staff recommends deleting “the side or face of” from II.B.3.d to make it clearer that the language applies to any part of an existing structure which encroaches upon a required yard or setback area.

### **Proposed Markup:**

Draft Language: To see if the Town will vote to amend the Protective Zoning Bylaw of the Town of Ipswich as follows: (~~strike through~~ = language to be deleted; ***bold italics*** = new language)

(1)

#### SECTION VI. TABLE OF DIMENSIONAL AND DENSITY REGULATIONS

##### FOOTNOTES TO TABLE OF DIMENSIONAL AND DENSITY REGULATIONS

1. Except in the Rural Residence C, the Planned Commercial, and the Limited Industrial Districts, no building in any district need have a front setback greater than the front setback of the principal building(s) existing on the premises as of the effective date of this provision, or the average front setback of the principal buildings on abutting lots *that wholly or partially fall* within two hundred and fifty (250) feet of each lot line facing the same street and located within the same area or district, ***measured including the front lot line of the subject lot***, whichever is less restrictive. In determining such average, a vacant lot having a frontage of at least eighty (80) feet shall be considered to have a front setback conforming to the requirements of this bylaw.

(2)

II.B.3.d:

Alteration to *the side or face of* a structure which encroaches upon a required yard or setback area, where the alteration will not encroach upon such area to a distance greater than the existing structure...

### **Issue:**

From time to time the State Legislature amends Massachusetts General Law Chapter 40A, the Zoning Act. Planning Staff learned that Chapter 40A, Section 6 was amended in August of 2016 to allow a freeze from amendments to the Zoning Bylaw post-building or special permit from six months to twelve months.

### **Proposed Amendment:**

The second paragraph of Chapter 40A, Section 6 now reads:

*A zoning ordinance or by-law shall provide that construction or operations under a building or special permit shall conform to any subsequent amendment of the ordinance or by-law unless the use or construction is commenced within a period of not more than 12 months after the issuance of the permit and in cases involving construction, unless such construction is continued through to completion as continuously and expeditiously as is reasonable.*

Section XI.R Applicability of Amendments to Outstanding Building Permits or Special Permits should be amended to be consistent with MGL Chapter 40A.

### **Proposed Markup:**

Draft Language: To see if the Town will vote to amend the Protective Zoning Bylaw of the Town of Ipswich as follows: (~~strike through~~ = language to be deleted; ***bold italics*** = new language)

#### XI.R Applicability of Amendments to Outstanding Building Permits or Special Permits

As prescribed in Section 6 of Chapter 40A of the General Laws, construction or operations under a building or special permit shall conform to any subsequent amendment of the bylaw unless the use or construction is commenced within a period of not more than *six twelve* months after the issuance of the permit...

**Issue:**

The Zoning Board of Appeals would like to have the opportunity to have three alternate members, which would aid with fulfilling quorum requirements as well as with distributing the workload.

**Proposed Amendment:** Section XI. Administration, F. Zoning Board of Appeals, currently allows for a Zoning Board of Appeals consisting of five members and two associate members. Planning Staff recommends amending this section to allow for a third associate member on the Board.

**Proposed Markup:**

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**XI. ADMINISTRATION, F. Zoning Board of Appeals**

A Zoning Board of Appeals consisting of five (5) members and ~~two (2)~~ ***three (3)*** associate members...

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**Potential 2020 Zoning Amendments**

**Issue:**

Planning Staff have learned that there are guest houses that may be permanently occupied, contrary to their permitted use. Guest houses are distinct from dwelling units in that they are not intended for permanent habitation. Guest houses function like dwelling units in *some* respects, however, they are not permitted to have cooking facilities or kitchen cabinets, they may not be let for compensation, and they must be clearly accessory to the principal dwelling on the same lot. Currently, guest house regulations appear in their definition (Section III) and in the Table of Uses in Section V. Guest houses are allowed in the RRA, RRB, RRC, IR, GB, CB, HB and I districts by special permit from the Zoning Board of Appeals.

**Possible Amendment:**

Add section for guest houses in IX. Special Regulations, addressing guest houses (similar to accessory apartments).

**Issue:**

Short term rentals

**Possible Amendment:**

Regulate time, place, and manner related issues for short term rental units.

**Issue:**

Since amending the accessory apartment provisions in 2018 Planning Staff has considered that certain accessory apartments that do not require any, or that require only very minor, exterior changes should be permitted by right (currently subject to ZBA special permit), provided certain conditions were met, such as demonstrating a designated parking space exists.

**Possible Amendment:**

Allow accessory apartments by right in limited circumstances.